



**PohlmanUSA<sup>®</sup>**  
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Mark G. Lawson  
February 22, 2019

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Grace Webster, Deceased, et al.

vs.

Edward Orton, Jr. Ceramic Foundation, et al.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

\* \* \*

KAREN CAHOON, AS EXECUTRIX  
OF THE ESTATE OF GRACE WEBSTER,  
DECEASED,

Plaintiff,

vs.

CASE NO. 2:17-CV-63-D

EDWARD ORTON, JR. CERAMICS  
FOUNDATION, METROPOLITAN LIFE  
INSURANCE COMPANY, and UNION  
CARBIDE CORPORATION,

Defendants.

\* \* \*

Videotaped discovery deposition of MARK  
G. LAWSON, Witness herein, called by the Plaintiff  
for cross-examination pursuant to the Rules of  
Civil Procedure, taken before me, Monica K. McBee,  
a Notary Public in and for the State of Ohio, at  
the Hilton Garden Inn, 8535 Lyra Drive, Columbus,  
Ohio, on Friday, February 22, 2019, at 10:02 a.m.

\* \* \*

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8	No. 1, an eleven-page document	
9	titled Amended Notice To Take	
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1 (Thereupon, Plaintiff's Exhibit  
2 No. 4, a four-page document titled  
3 Supplemental Affidavit of Gary  
4 Childress in Support of Defendant  
5 Edward Orton Jr. Ceramic  
6 Foundation's Motion to Dismiss  
7 Plaintiff's First Amended Complaint,  
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1 APPEARANCES:

2 On behalf of the Plaintiff:

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10 On behalf of the Defendants:

11 Dean & Gibson, PLLC

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19 ALSO PRESENT:

20 Steve Troncone, Videographer  
21 Gabriel A. Jackson

22 \* \* \*

23

24

25

1                   THE VIDEOGRAPHER: We are now on the  
2 video record. Today is February 22nd, 2019. The  
3 time is approximately 10:02 a.m. Will you please  
4 raise your right hand to be sworn by the court  
5 reporter?

6                   MARK G. LAWSON  
7 of lawful age, Witness herein, having been first  
8 duly cautioned and sworn, as hereinafter  
9 certified, was examined and said as follows:

10                  MR. SEALEY: This is plaintiff's  
11 counsel, Drew Sealey, on behalf of Karen Cahoon. I  
12 just want to put one note on the record, that  
13 counsel and I have agreed that we would limit  
14 today's deposition to topics relating to  
15 jurisdictional issues, and we reserve the right to  
16 request that Mr. Lawson or someone else from Orton  
17 be provided to cover topics beyond jurisdictional  
18 issues down the road, should that become  
19 necessary.

20                  CROSS-EXAMINATION

21 BY MR. SEALEY:

22                  Q. All right. Mr. Lawson, we met  
23 just right before the deposition. But, again,  
24 my name is Drew Sealey, and I am an attorney  
25 representing the plaintiff, Karen Cahoon, in

1     this case. For the benefit of the record,  
2     could you please state your full name?

3             **A.     Sure. My name is Mark Griswold**  
4     **Lawson.**

5             Q.     And that's L-A-W-S-O-N?

6             **A.     That's correct.**

7             Q.     Okay. And, Mr. Lawson, you are  
8     currently employed?

9             **A.     That is correct.**

10            Q.     And by who are you employed?

11            **A.     The Edward Orton, Jr. Ceramic**  
12     **Foundation.**

13            Q.     Okay. And I know I have referred  
14     to them as Orton already. But if I refer to  
15     them as Orton, you will know who I am talking  
16     about; is that fair?

17            **A.     That's fine. It's a mouthful, so**  
18     **Orton is fine.**

19            Q.     Okay, all right. And, Mr. Lawson,  
20     have you ever been deposed before?

21            **A.     No, sir, I have not.**

22            Q.     You have not. Well, welcome.  
23     It's a fun ride. Do you have an understanding  
24     then of why we are here today?

25            **A.     Yes, I do.**

1           Q.    Okay.  And what is your  
2   understanding?

3           **A.    It's in relationship to a case**  
4   **where someone was exploring what information**  
5   **exists in terms of exposure to trace amounts of**  
6   **asbestos that were in some of the packaging**  
7   **materials that we used.**

8           Q.    Okay.  And before we get into that  
9   a little bit more, let me just go over some  
10   ground rules for the deposition, since you  
11   haven't been a party to one before.  If at any  
12   time I ask a question that you don't understand  
13   or doesn't make sense, which I am absolutely  
14   going to do, please ask me to repeat it or  
15   rephrase it, and I will be happy to do so,  
16   okay?

17                   Please try and remember to give  
18   verbal answers for the court reporter's  
19   benefit.  Obviously, a video can pick up shakes  
20   of the head, but the transcript would not  
21   reflect those.  So just yeses, nos, things of  
22   that nature.

23                   I don't know that I would ask you  
24   to give me dimensions of anything.  But to the  
25   extent that I would, rather than trying to



1     compare it to things in the room that we  
2     couldn't see on the record, if you can just try  
3     and do your best to approximate it or estimate  
4     it. Certainly, if I ask a question and you  
5     give me an answer, I will assume that you  
6     understood the question that was asked.

7                     I don't think I am going to be  
8     very long at all. But if for any reason we  
9     need to take a break, just let us know, and we  
10    can do that. Fair enough?

11                    **A.    Fine.**

12                    Q.    Okay. Now, you understand that  
13    you are here as a spokesperson on behalf of  
14    Orton, correct?

15                    **A.    Yes, sir.**

16                    Q.    Okay. So any time I refer to you,  
17    I am referring to Orton, unless I -- not you  
18    personally, but Orton as a corporation or a  
19    foundation, unless I specify otherwise,  
20    correct?

21                    **A.    Yes, sir.**

22                    Q.    Okay. And I assume just one of  
23    the perks of being a general manager is that  
24    you get to come here and spend time with me  
25    today. So you are not being compensated

1 outside of your position as general manager for  
2 the foundation, correct?

3 **A. No, sir.**

4 Q. Okay, what a perk that is. Okay,  
5 can you tell me first about your background?  
6 How did you become the general manager of  
7 Orton?

8 **A. Through contact with the previous**  
9 **general manager, Gary Childress.**

10 Q. Okay. Well, what is -- let's  
11 start with your -- I just -- you don't have a  
12 CV with you, by chance, do you?

13 **A. No, I don't.**

14 Q. If we could just kind of walk  
15 through your history, since we haven't had the  
16 benefit of reading any prior transcripts or  
17 learning much about you, starting just kind of  
18 with your educational background?

19 **A. I have two engineering degrees and**  
20 **a business degree.**

21 Q. Okay. And from where?

22 **A. I have a engineering degree from**  
23 **Virginia Polytechnic Institute.**

24 Q. Okay. When did you obtain that?

25 **A. 1982.**

1 Q. Okay.

2 A. And I have a master's in  
3 engineering from University of Pittsburgh.

4 Q. Okay. And when did you obtain  
5 that?

6 A. 1987.

7 Q. Okay. And you said you have  
8 another degree?

9 A. I have a master's in business  
10 administration from the University of Chicago.

11 Q. Okay. And when was that obtained?

12 A. 1993.

13 Q. Okay, okay. So you obtained your  
14 engineering degree in '82, your master's of  
15 engineering in '87, and then the MBA in '93?

16 A. That's correct.

17 Q. Okay. Talk to me a little bit if  
18 you would about your work history. Did you --  
19 when you graduated with an engineering degree  
20 in 1982, did you go into the workforce?

21 A. Yes, I did. From 1982 to 1984 I  
22 worked for a company called Eutectic Castolin.

23 Q. You are going to have to help me  
24 out with that.

25 A. Okay. Eutectic is

1     **E-U-T-E-C-T-I-C.**

2             Q.     Okay.

3             **A.     And Castolin is C-A-S-T-O-L-I-N.**

4             Q.     What did Eutectic Castolin do?

5             **A.     They made welding, soldering, and**  
6     **aware protection products.**

7             Q.     What are aware protection  
8     products?

9             **A.     Where you have parts or surfaces**  
10    **that degrade due to abrasion.**

11            Q.     Okay.

12            **A.     Trying to make them more**  
13    **resilient.**

14            Q.     Okay.    So you did that for about  
15    two years.    Then did you go to graduate school  
16    full-time?

17            **A.     That's correct.**

18            Q.     So from '84 to '87 you were  
19    getting your master's?

20            **A.     That's correct.**

21            Q.     Okay.    And then when you graduated  
22    with your master's in '87, did you --

23            **A.     Then I went and worked for the**  
24    **Institute of Gas Technology.**

25            Q.     Okay.    Where was that?

1           **A.     Chicago, Illinois.**

2           Q.     Okay.  And I should have asked  
3     you, where was Eutectic Castolin located?

4           **A.     Flushing, New York.**

5           Q.     Okay.  What was your role with the  
6     Institute of Gas Technology in Chicago?

7           **A.     Materials engineer.**

8           Q.     Okay.  Any specific materials?

9           **A.     A pretty wide range of materials.**  
10    **I have worked in a lot of materials.  But**  
11    **primarily, the -- primarily on materials in a**  
12    **molten carbonate fuel cell, which are primarily**  
13    **lithium aluminate, nickel, nickel oxide.**

14          Q.     Okay.  And how long did you work  
15    for the Institute of Gas Technology?

16          **A.     I believe about four years.**

17          Q.     Okay.  Were you doing -- did you  
18    start then getting your MBA in conjunction with  
19    that, or did you get your --

20          **A.     Right.  The balance of my**  
21    **education was while I was working after my**  
22    **bachelor's.**

23          Q.     Okay.  So in approximately 1991 or  
24    '92, where did you go to work?

25          **A.     Okay.  I believe you skipped a**

1     **job.**

2             Q.     Well, okay.   You said --

3             **A.     If you want to, that's fine.**

4             Q.     No, no, no, no, no.   You said you  
5     worked for the Institute of Gas Technology for  
6     about four years starting in '87, correct,  
7     after you received your master's?

8             **A.     Wait, let me make sure I don't get**  
9     **confused here.**

10            Q.     I promise I am not trying to trick  
11    you.

12            **A.     No, that's all right.   I started**  
13    **in 1986.   I graduated in '87, but that's**  
14    **because I defended my thesis after I started**  
15    **work.**

16            Q.     Okay.

17            **A.     Then I worked there till 1990.**

18            Q.     Okay.

19            **A.     Then from 1990 to 1995 -- from**  
20    **1990 to 1995, I went to Elkay Manufacturing.**

21            Q.     Can you spell that?

22            **A.     E-L-K-A-Y.**

23            Q.     And what was your role with Elkay  
24    Manufacturing?

25            **A.     Once again, materials engineer.**

1 Q. Okay. The same type of materials?

2 A wide range that --

3 A. Some overlap, but more metals,  
4 less ceramics.

5 Q. And where did you go after you  
6 left Elkay?

7 A. Okay. So from 1995 to 1999, I  
8 went to work for Senior Flexonics.

9 Q. Where was that located?

10 A. A suburb of Chicago, Bartlett,  
11 Illinois.

12 Q. I am familiar. And what did you  
13 do for Senior Flexonics?

14 A. Director of engineering.

15 Q. What type of things was Senior  
16 Flexonics producing?

17 A. Automotive parts in the division  
18 that I was working in.

19 Q. Okay. What types of automotive  
20 parts?

21 A. Principally, exhaust system  
22 components and air pollution reduction  
23 components, some heat exchangers.

24 Q. Okay. And then in '99, what came  
25 next?

1           **A.    Okay.    So from then '99 to 2011 --**

2           Q.    Okay.

3           **A.    -- I went back to Elkay again.**

4           Q.    Okay.    Did your role change?

5           **A.    Vice president of -- or no,**  
6 **director of engineering, pardon me.**

7           Q.    So you made them feel the pain for  
8 four years, then you went back, huh?

9           **A.    They called me and made me an**  
10 **offer I couldn't refuse.**

11          Q.    All right, so another twelve years  
12 with them.    And then where did you go in 2011?

13          **A.    Okay.    Then 2011, I went -- from**  
14 **1999 to 2011 -- or no, from 2011 to 2013 --**

15          Q.    Okay.

16          **A.    I apologize, from 2011 to 2013, I**  
17 **went to work for a medical device company.**

18          Q.    What were you doing for them?

19          **A.    Supply chain leader.**

20          Q.    What was the name of the company?

21          **A.    Trigon International.**

22          Q.    And then in 2013?

23          **A.    Then from -- in 2013, I went to**  
24 **work for Tervis, T-E-R-V-I-S.**

25          Q.    The cup company?



1           **A.    The cup company; that's correct.**

2           Q.    Okay, I love Tervis.  They were  
3   great until Yetis took over.  Is that why --  
4   don't tell me that's why you left.

5           **A.    No, that's not why I left.**

6           Q.    How long did you work for Tervis?

7           **A.    About four years, so that would**  
8   **have been what --**

9           Q.    About 2017?

10          **A.    Right.**

11          Q.    What did you do for Tervis?

12          **A.    2013 to 2017.  Senior vice**  
13   **president of engineering.**

14          Q.    And where is that?

15          **A.    It's in Venice, Florida.**

16          Q.    Were you living in Florida or were  
17   you living somewhere else?

18          **A.    I was living in Florida.**

19          Q.    And you came back to Columbus?

20          **A.    Yes.**

21          Q.    A day like today, that's a really  
22   good decision.  Okay.  So in 2017, where did  
23   you go?

24          **A.    2017, I worked as a consultant for**  
25   **small businesses through the Small Business**

1     **Administration. I did that for a year.**

2             Q.    Okay. What type of businesses  
3    were you consulting?

4             A.    **Primarily, manufacturing.**

5             Q.    Was that still in Florida?

6             A.    **Yes.**

7             Q.    It was after that when you got  
8    sucked into the Edward Orton Ceramic  
9    Foundation?

10            A.    **In January of last year, 2018, I**  
11   **came up fourteen months ago, I guess, to the**  
12   **Edward Orton Jr. Ceramic Foundation.**

13            Q.    Okay. So you have been -- have  
14    you been in the role as general manager since  
15    you started working for Edward Orton?

16            A.    **Yes, sir.**

17            Q.    Okay. So you have been with the  
18    company for about fourteen months, you said?

19            A.    **Approximately, slightly less.**

20            Q.    Okay, all right. And Orton is  
21    obviously in the business of manufacturing  
22    pyrometric cones, correct?

23            A.    **We have three businesses, that's**  
24   **one of our businesses.**

25            Q.    Okay. What are the other two?

1           **A.    Materials testing.**

2           Q.    Okay.  Tell me what that means.

3           **A.    We do all different tests of**  
4 **materials for all different companies primarily**  
5 **centered around the high temperature properties**  
6 **of materials.  So we measure all different**  
7 **properties and then report back to different**  
8 **industries what the properties of their**  
9 **materials are and how they react, especially at**  
10 **high temperature.**

11          Q.    Okay.  And how long has that been  
12 a division of Edward Orton?

13          **A.    My knowledge is limited to that we**  
14 **were doing that back in the early '60s.  I**  
15 **don't know the exact date of when it started.**

16          Q.    Okay, so you are performing a  
17 service for various companies around.  Is it  
18 limited to the United States or beyond?

19          **A.    No, we have done business I think**  
20 **in seventy different countries besides the US,**  
21 **continue to have international business.**

22          Q.    Okay.  So one division is the  
23 manufacture and sale of pyrometric cones, one  
24 division is materials testing, and you said  
25 there is a third division?

1           **A.    We build the test instruments and**  
2   **sell the test instruments to our customers as**  
3   **well.  So we give them the choice of doing the**  
4   **testing themselves, or we do the testing for**  
5   **them.**

6           Q.    Okay.  Did you bring anything with  
7   you today relative to your testimony?

8           **A.    No, sir.**

9           Q.    Okay.  Why don't we --

10                  MR. SEALEY:  I am going to just run  
11   this up there.  This is what I just showed you,  
12   Amy.  Can you just mark that as Exhibit 1?

13                  (Thereupon, Plaintiff's Exhibit  
14   No. 1, an eleven-page document titled Amended  
15   Notice To Take Discovery Deposition, was marked  
16   for purposes of identification.)

17   BY MR. SEALEY:

18           Q.    I am just going to hand that to  
19   you, sir.

20           **A.    Thank you.**

21           Q.    If you wouldn't mind taking a  
22   look.  Have you seen -- have you seen that  
23   document before?

24           **A.    Yes, I have.**

25           Q.    Okay.  And that's just a notice

1 for today's deposition. But what is the first  
2 time you can recall seeing that document?

3 **A. The day before yesterday.**

4 Q. Okay. If you wouldn't mind --  
5 your counsel and I have spoken and we have  
6 agreed to limit today's deposition to just  
7 certain of the delineated items that were  
8 requested in that deposition notice.

9 If you wouldn't mind just opening  
10 that for a second, I just put a highlight over  
11 the numbers that we have agreed to, starting --  
12 I believe it starts with number one.

13 MS. DRAYTON: The third or fourth  
14 page there, Mark.

15 THE WITNESS: Okay, I see that. Let  
16 me check the third page here, make sure I see them  
17 all. Okay, got it.

18 BY MR. SEALEY:

19 Q. So are you the person that's most  
20 knowledgeable --

21 **A. Yes, sir.**

22 Q. -- with respect to the items  
23 delineated there? Okay. I assume that we can  
24 agree based on the fact that you have been  
25 working for Orton for just shy of fourteen

1 months that anything you are testifying here to  
2 today is not based on direct personal  
3 knowledge?

4 **A. I would say anything that happened**  
5 **during the time period that we are examining --**

6 Q. Fair enough.

7 **A. -- couldn't be.**

8 Q. Anything that's occurred prior  
9 to --

10 **A. I am not trying to be evasive.**

11 Q. No, no.

12 **A. I am just trying to make sure I**  
13 **answer your question accurately.**

14 Q. You are being a good witness.  
15 Prior to 2000 -- anything that you are  
16 testifying to that happened prior to 2018 would  
17 not be based on your direct personal knowledge,  
18 correct?

19 **A. That's correct.**

20 Q. Okay. Any knowledge that you have  
21 acquired has been through talking to other  
22 sources, other employees, reviewing documents,  
23 et cetera?

24 **A. That's correct.**

25 Q. Okay, fair enough. What have you

1     done to prepare for today's deposition?

2             A.     Well, I have done a lot over the  
3     last fourteen months just not to prepare  
4     specifically for this deposition but to learn  
5     as much as I possibly could to be able to give  
6     an accurate account of what the extent of our  
7     knowledge is of the events that occurred and  
8     the information that was available during the  
9     time all these things happened.

10            Q.     Okay.

11            A.     So I have done numerous things to  
12     try to learn about the history and in  
13     particular what documentation we have and what  
14     was done in regard to handling vermiculite.

15            Q.     Okay.  So what types of things  
16     have you done?

17            A.     I have read everything that I  
18     could get my hands on that looked like it  
19     was -- may have any relationship to our  
20     treatment of packing materials over those  
21     years.

22            Q.     Okay.

23            A.     I have sought out and reviewed any  
24     documents I could find, and then I spent a lot  
25     of time interviewing Gary Childress, the

1     **previous general manager, and I have talked to**  
2     **long-term employees, basically not all at once.**

3             Q.     Sure.

4             A.     But as time progresses, I try to  
5     **learn more and more and about the history of**  
6     **the company in general, so I think that -- that**  
7     **probably covers it.**

8             Q.     Okay. Well, guess what? The  
9     history of the company has been beat to death,  
10    so I am not going to quiz you on that.

11            MS. DRAYTON: Good news.

12    BY MR. SEALEY:

13            Q.     So we will spare you that  
14    headache. You said you sought documents.  
15    Where would you go to seek documents?

16            A.     Well, the principal thing I did  
17    **is -- and it's widely been disclosed -- that we**  
18    **have a document cage on a mezzanine.**

19            Q.     Okay.

20            A.     So I'm the type of person that  
21    **likes to see things instead of saying that**  
22    **someone else told me something. So even though**  
23    **all those documents have been gone over**  
24    **numerous times, I went up and --**

25            Q.     Locked yourself in the cage?



1           **A.    -- tried to open every single box**  
2   **of every document in the cage so that I would**  
3   **know -- see firsthand what I was talking about.**

4           Q.   Fair enough.  You indicated that  
5   you also interviewed Gary Childress  
6   extensively.  You guys obviously have a  
7   personal relationship if he was the one that  
8   recruited you to --

9           **A.    We have an ongoing relationship.**

10          Q.   When did you first --

11          **A.    He is a mentor of mine.**

12          Q.   When did you first meet Gary?

13          **A.    To my best memory, that would have**  
14   **been December of 2017.  We had talked on the**  
15   **phone prior to that.**

16          Q.   Have you read any prior  
17   transcripts of Gary's deposition transcripts?

18          **A.    Depositions?**

19          Q.   Yeah.

20          **A.    I have made an attempt to review**  
21   **all the available transcripts of depositions.**

22          Q.   It's like reading a Grisham novel,  
23   isn't it?  It keeps your attention.  It's real  
24   nailbiters.  Okay, and you said you talked with  
25   some former employees.  Can you identify for me

1    what former employees you have spoken with to  
2    gather knowledge?

3                   **A.    No former employees, present,**  
4    **long-term employees.**

5                   Q.    Who would those be?

6                   **A.    Well, the principal one, the**  
7    **longest tenured one would be Jim Litzinger.**

8                   Q.    Who is Jim Litzinger?  What does  
9    he do with the company?

10                  **A.    He is the business manager.**

11                  Q.    Do you know how long he has been  
12   with Orton?

13                  **A.    Yes, he is the longest tenured**  
14   **employee.  He started in 1990.  So that would**  
15   **be twenty-six years.**

16                  Q.    It would be twenty-nine years.

17                  **A.    Twenty-nine years, pardon me.  You**  
18   **got me.**

19                  Q.    It's not a math test.  I thought  
20   you were an engineer, okay.  Any other  
21   employees?

22                  **A.    Well, we are a small company, so I**  
23   **talked to everybody, but --**

24                  Q.    Fair enough.  Is there anybody  
25   else you would defer to in terms of --

1           **A.   Tom McInnerny. He is fairly**  
2   **knowledgeable about things.**

3           Q.   How would you spell that last  
4   name?

5           **A.   I believe it's M-C-I-N-N-E-R-Y.**

6           Q.   Okay. What is --

7           **A.   But I am not sure I have the right**  
8   **number of N's.**

9           Q.   There could be four. What is  
10   Tom's role with the foundation?

11          **A.   He is an engineer.**

12          Q.   Okay. And do you know how long he  
13   has been with them, with you?

14          **A.   No, I can't recall.**

15          Q.   Okay. Anybody else?

16          **A.   Less than Jim, I know that.**

17          Q.   Fair enough. Anyone else?

18          **A.   Those are the two people I'd**  
19   **primarily go to when I have any question about**  
20   **anything that's related to packaging materials**  
21   **in the past.**

22          Q.   Okay, fair enough. So you have  
23   spent obviously the last year-plus just kind of  
24   reviewing anything you can get your hands on,  
25   it sounds like. Specifically as it relates to

1 the case that we are here for today, have you  
2 reviewed any documents related to -- to this  
3 case, the deposition transcript or anything  
4 like that?

5 **A. Yes.**

6 Q. Okay. Any other documents?

7 **A. Well, this document in particular**  
8 **that you have already given me in terms of what**  
9 **it covered and what I am responsible for.**

10 Q. Okay. So you read the dep -- or  
11 the deposition notice.

12 MS. DRAYTON: Let me just interject,  
13 Drew. When you said deposition transcript, what  
14 transcript are you referring to?

15 MR. SEALEY: Karen, Karen Cahoon's  
16 transcript.

17 MS. DRAYTON: That's what I thought.

18 THE WITNESS: I am sorry.

19 MS. DRAYTON: He is asking the  
20 plaintiff, Ms. Cahoon, have you reviewed that?

21 THE WITNESS: No, I have not. I have  
22 not seen that, I apologize.

23 BY MR. SEALEY:

24 Q. Okay. Any other documents that  
25 relate specifically to this deposition -- or I

1 am sorry, to this case that you have reviewed  
2 for today's deposition?

3 **A. Not that I can recall.**

4 Q. Okay, okay. You have already  
5 alluded to the infamous cage, so I wanted to  
6 talk to you a little bit more about that. Does  
7 Orton today -- is there a document retention  
8 policy that Orton keeps?

9 **A. Yes.**

10 Q. Okay. And what is that policy?

11 **A. Our -- our policy is for**  
12 **accounting information. We retain it for seven**  
13 **years.**

14 Q. Okay.

15 **A. And that's generally accepted and**  
16 **also to try to comply with the IRS as well.**

17 Q. Sure, okay. What about other  
18 documents or materials?

19 **A. It depends on the document, the**  
20 **type of the document. We are an ISO company,**  
21 **so we actually have a two-page matrix of how**  
22 **long we keep certain kinds of documents. And**  
23 **the times specified are the minimum amount of**  
24 **time we will hold those documents.**

25 **And, like I said, there's two**

1    pages. But I did review that, and none of  
2    those are in excess of seven years. Some of  
3    them are less than seven years.

4           Q.    Okay. So seven years is the max?

5           A.    It's the max we guarantee. We  
6    will hold them no less than that period of  
7    time.

8           Q.    Fair enough. Tell me about the  
9    cage. Is this where all Orton documents are  
10   stored, historical documents?

11          A.    I wouldn't say that. I mean, I  
12   have a couple historical documents in my  
13   office.

14          Q.    Okay.

15          A.    So -- but they are -- most of them  
16   are related to Standard Pyrometric Cone  
17   Company, which is pre-1932.

18          Q.    Okay.

19          A.    There are also some of those  
20   historical type documents at Ohio State. So I  
21   would not say all the documents are in that  
22   cage.

23          Q.    Fair enough.

24          A.    That wouldn't be accurate.

25          Q.    Are the documents that you

1 reference at Ohio State based on pre-1932?

2           **A. I don't know that they are all**  
3 **pre-1932, but they are historical in nature.**

4           Q. Okay.

5           **A. So the bulk of them would be**  
6 **during Edward Orton's lifetime.**

7           Q. Fair enough.

8           **A. Many of them are handwritten**  
9 **documents by Edward Orton, and he died in 1932.**

10          Q. Okay.

11          **A. So that would corroborate that the**  
12 **bulk of them are, but I cannot say that all of**  
13 **them are.**

14          Q. Fair enough. What documents --  
15 well, strike that, let me back up. Where is  
16 this mezzanine or this cage that you have  
17 talked about?

18          **A. It's -- it's a mezzanine. It's a**  
19 **second story mezzanine, so it's off the**  
20 **production area. And it's between the office**  
21 **and shipping and receiving as you walk out of**  
22 **the office towards the -- the shop area.**

23          Q. Okay. So it's in the Orton  
24 headquarters?

25          **A. We only have one location.**

1 Q. So it's in the Orton location?

2 A. Yeah. So I guess by definition,  
3 everything is at our headquarters.

4 Q. Okay. You don't have any other  
5 document storage facility off site?

6 A. I am not aware that we have any  
7 facility to store anything off site.

8 Q. Okay. This area itself where  
9 these documents are stored, can you estimate  
10 for me approximately how big it is?

11 A. Okay. So in round numbers?

12 Q. Sure.

13 A. Sixteen by twenty.

14 Q. Okay.

15 A. That's an estimate.

16 Q. Sure.

17 A. Sixteen feet by twenty feet, I'm  
18 sorry.

19 Q. And what is actually in this  
20 space, are there filing cabinets, drawers,  
21 what --

22 A. There is a lot of metal shelves,  
23 some of which are empty, and a lot of -- a few  
24 metal filing cabinets. Some are empty, and  
25 some are not.



1           Q.    Do you have any idea as to the  
2   number of documents that are stored there?

3           **A.    No, I don't.**

4           Q.    Fair enough.  You didn't lock  
5   yourself in there and count them one day, did  
6   you?

7           **A.    No.**

8           Q.    Let's talk about --

9                   MR. SEALEY:  I am trying to figure out  
10   the best way to do this because it's eight hundred  
11   and fifty-five pages of documents.  There were  
12   documents that were produced to us in this case  
13   that I want to mark as Exhibit 2.

14                   But what I think I want to do,  
15   Monica, is we will try to provide an electronic  
16   copy of these so as not to burden you and/or  
17   anyone in the copying of all these documents.

18   BY MR. SEALEY:

19           Q.    I am going to come up, and I am  
20   going to hand these to you.  And I only brought  
21   one copy because, of course, again, there is a  
22   lot of pages.

23                   (Thereupon, Plaintiff's Exhibit  
24   No. 2, a binder of documents, was marked for  
25   purposes of identification.)

1 BY MR. SEALEY:

2 Q. I am going to hand this to you,  
3 sir, if you wouldn't mind.

4 A. **Thank you. I am going to move**  
5 **this glass so I don't break anything.**

6 Q. Oh, sure.

7 A. **Especially not on tape.**

8 Q. Okay. No getting out of that one.  
9 Okay. Those were documents that were produced  
10 to us in this case. And first of all, I guess,  
11 have you seen those documents before?

12 A. **Yes, sir.**

13 Q. Okay. I know you haven't had a  
14 chance to thumb through all eight hundred and  
15 fifty-five pages. But based on your quick  
16 review, do those appear to be true and accurate  
17 copies of what was provided to us by your  
18 counsel?

19 A. **Yes, these are documents that we**  
20 **have disclosed that we refer to as the cash**  
21 **receipt journals.**

22 Q. Okay, you just answered my next  
23 question. And as you may or may not be aware,  
24 these documents have never been produced in  
25 litigation before, so I just want to ask you a

1 little bit more about them, at least that I am  
2 aware of. Where were these documents  
3 uncovered?

4 A. Okay. To my knowledge, all of  
5 these documents were discovered in the cage,  
6 but there were copies of a portion of these  
7 documents where I got -- when I -- when I first  
8 got there, and I cannot trace exactly where  
9 they got that portion of the cash receipt  
10 journals and made copies of them.

11 Q. I am not sure I follow. So these  
12 were in the cage, but they had never before  
13 been seen or looked at?

14 A. Okay. When I got to Orton, they  
15 had a portion of the cash receipt journals.

16 Q. Okay.

17 A. When I went in the cage, as I  
18 disclosed to you earlier --

19 Q. Yeah.

20 A. And I know the date because I kind  
21 of was surprised to find the documents, so I  
22 said I had better keep track of how this  
23 happened.

24 Q. Okay.

25 A. It was August 29th of 2018.

1 Q. Okay.

2 A. That was the day I described that  
3 I went in and I looked at all the documents. I  
4 found additional years of the cash receipt  
5 journals.

6 Q. Okay. So you personally found  
7 these?

8 A. Right.

9 Q. Okay. You mentioned years --

10 A. So those particular ones came from  
11 the cage.

12 Q. Okay. You reference some other  
13 cash receipt journals that you knew to have  
14 existed before then for certain years. What  
15 years were those?

16 A. I can't -- I know the span of  
17 years, but I can't remember which years were  
18 there when I got there and which years I found.

19 Q. What is the span of years that  
20 exists for these cash receipt journals?

21 A. They run from 1963 --

22 Q. Okay.

23 A. And now I am having a memory  
24 lapse, I believe 1985.

25 Q. Okay. And to the best of your

1 knowledge, these were documents that were made  
2 at or around the time that this business was  
3 conducted?

4 **A. They were handwritten. They were**  
5 **dated.**

6 Q. Okay.

7 **A. I would be assuming, you know, if**  
8 **that's --**

9 Q. That's the case?

10 **A. Yeah.**

11 Q. Do you know who was responsible  
12 for keeping those cash receipt journals?

13 **A. No.**

14 Q. Okay. Do you know if it was a --  
15 not necessarily by name, but was it somebody in  
16 the accounting department? Was it a general  
17 manager, or you just don't know?

18 **A. I would be -- I would be assuming,**  
19 **so --**

20 Q. Okay, fair enough. A safe  
21 assumption that they were made by somebody who  
22 had specific knowledge of the transactions that  
23 were taking place?

24 MS. DRAYTON: Objection.

25 THE WITNESS: That's a reasonable

1 conclusion.

2 BY MR. SEALEY:

3 Q. To the best of your knowledge,  
4 they were -- they were kept in the ordinary  
5 course of business?

6 A. To the best of my knowledge.

7 Q. Okay. Are there any more  
8 documents like this that you are aware of that  
9 have been found but have not yet been produced?

10 A. No.

11 Q. There are documents, though, based  
12 on your belief because we were produced  
13 documents I believe in 1973 or '74 that go all  
14 the way back to 1963, you believe?

15 A. Can you please repeat your  
16 question?

17 Q. Sure. The documents that I put in  
18 front of you -- and I think you can probably  
19 see there at the top the first month and year,  
20 which is -- I am sorry, I don't have that in  
21 front of me. Can you read that to us?

22 A. 1974.

23 Q. Okay. So it's your testimony that  
24 there are documents from -- like these that go  
25 from 1963 until 1974?

1           **A.    Yes.**

2           Q.    Okay.  But based on your knowledge  
3   outside of what is sitting there in front of  
4   you that spans from 1974 until approximately  
5   1985 and then what goes from 1963 to 1974 that  
6   we have not seen, there are no other cash  
7   receipt ledgers?

8           **A.    That is correct.**

9           Q.    So what would you say is the  
10   information that's contained in those cash  
11   receipt journals?

12          **A.    Generally, it tends to be the**  
13   **date, the name of what appears to be a**  
14   **distributor or a reseller, and then some amount**  
15   **of -- of money.  That's the general nature.**

16          Q.    Okay.  Are those cash receipt  
17   journals still kept in the regular course of  
18   business today?

19          **A.    No, sir.**

20          Q.    In a much more advanced form, I am  
21   sure?

22          **A.    We have computers.**

23          Q.    Do you know why the cutoff in  
24   1985?  Did the system become automated or --

25          **A.    I would be speculating.**

1           Q.    Okay.  So it's your belief that  
2   these cash receipt journals reflect  
3   distributors or resellers of Orton pyrometric  
4   cones, correct?

5           **A.    That seems like a reasonable**  
6   **assumption to me.**

7           Q.    Do you know if the information  
8   came -- strike that.  Do you know if the  
9   information contained in those cash receipt  
10  journals is exhaustive?

11           MS. DRAYTON:  Objection, form.

12           THE WITNESS:  I can't verify that.  I  
13  have no way of knowing that.

14  BY MR. SEALEY:

15           Q.    Okay.  Is there anyone who does or  
16  who would?

17           **A.    I don't believe so.**

18           Q.    And certainly you don't know the  
19  particulars of any of those transactions  
20  contained in those cash receipt journals,  
21  correct?

22           **A.    No, sir.**

23           Q.    Okay.  Is there anyone who would?

24           **A.    No, sir.**

25           Q.    And I should ask a better



1 question, is there anyone from Orton who would  
2 know the particulars of those transactions?

3 **A. And I should have said not to my**  
4 **knowledge. It's possible there could be, but**  
5 **not to my knowledge.**

6 Q. Okay. You don't know of some  
7 accountant from 1976 that is still around who  
8 was keeping those journals? Let's put it that  
9 way.

10 **A. No, sir.**

11 Q. Okay. Have you had a chance to  
12 review the entries in those cash receipt  
13 journals?

14 **A. Not in totality.**

15 Q. Okay. Are you aware that there  
16 are entries in those cash receipt journals that  
17 reflect the sale of Orton pyrometric cones to  
18 Ceramics By Stu-Doodle?

19 **A. Yes, sir.**

20 Q. Are you aware that there has been  
21 testimony provided in the case we are here for  
22 today, the case of Karen Cahoon, that Ceramics  
23 By Stu-Doodle is located in Elizabeth City,  
24 North Carolina?

25 **A. I am not aware of that testimony,**

1     **no.**

2             Q.    I will represent to you based on  
3   the testimony of Karen Cahoon that there is a  
4   ceramics -- there was a ceramics supply store  
5   in Elizabeth City, North Carolina, by the name  
6   of Ceramics By Stu-Doodle. Are you aware of  
7   any other Ceramics By Stu-Doodle distributors  
8   or resalers that Orton supplied cones to?

9             **A.    Please repeat the question.**

10            Q.    Sure. Are you aware of any other  
11   suppliers or resellers of Orton pyrometric  
12   cones by the name Ceramics By Stu-Doodle other  
13   than the one that's been identified in this  
14   case in Elizabeth City, North Carolina?

15            **A.    The only reference I know to**  
16   **Stu-Doodle is in these journals, these cash**  
17   **receipt journals that have been disclosed and**  
18   **appear to be here in front of me. I know of no**  
19   **other.**

20            Q.    So you have no information or  
21   testimony to contradict the assertion by Karen  
22   Cahoon that she and her mother purchased Orton  
23   pyrometric cones from Ceramics By Stu-Doodle in  
24   Elizabeth City, North Carolina?

25            **A.    I am sorry, can you repeat the**

1     **question?**

2                   MR. SEALEY: Can you read that back,  
3     please?

4                   (Question read.)

5                   MS. DRAYTON: Objection to form,  
6     lacks foundation.

7                   THE WITNESS: No.

8                   (Thereupon, Plaintiff's Exhibit  
9     No. 3, a document titled Affidavit, was marked for  
10    purposes of identification.)

11    BY MR. SEALEY:

12                Q. I am going to hand that to you,  
13    sir. Mr. Lawson, if you wouldn't mind just  
14    taking a peek at that document. Have you ever  
15    seen that document before?

16                **A. I don't recall seeing this**  
17    **document.**

18                Q. Okay. And I will represent to  
19    you, that's an affidavit that's been presented  
20    to us in this case of a former employee of  
21    Ceramics By Stu-Doodle in Elizabeth City, North  
22    Carolina.

23                   And if you would go down to  
24    paragraph four there, it says Ceramics By  
25    Stu-Doodle sold Orton pyrometric cones which

1     were purchased directly from Orton on a regular  
2     and continuous basis during my employment. Did  
3     I read that correctly?

4             **A.     Yes.**

5             Q.     Okay. And paragraph two says I  
6     was employed by Ceramics By Stu-Doodle from  
7     approximately 1974 to 1984. Did I read that  
8     correctly?

9             **A.     Yes.**

10            Q.     Do you have any information or  
11    testimony that would contradict the assertions  
12    made by Elaine Garrett in this affidavit?

13            **A.     If I am following the logic of**  
14    **this document correctly, the cash receipt**  
15    **journals indicate that we only sold cones to**  
16    **Stu-Doodle from 1978 through 1980. So I think**  
17    **that could be interpreted as contradicting**  
18    **this. But there is a lot of interpretation, so**  
19    **I am not -- I am not a lawyer, so I don't know.**

20            Q.     Okay, fair enough. Well, you  
21    would agree with me that the evidence in the  
22    cash receipt journals corroborates at least for  
23    some period of time the sale of Orton  
24    pyrometric cones to Ceramics By Stu-Doodle in  
25    Elizabeth City, North Carolina, correct?

1 MS. DRAYTON: Objection to form,  
2 unlimited as to time or scope.

3 THE WITNESS: Okay. I would point  
4 out that the cash receipt journals only indicate  
5 the receipt of money and also that we sold other  
6 products besides pyrometric cones. So I don't  
7 think you can from the cash receipt journal  
8 conclude which products were paid for.

9 BY MR. SEALEY:

10 Q. Okay. What other --

11 **A. Or services. So I can't say based**  
12 **on my interpretation of the information that's**  
13 **available. Was that clear?**

14 Q. Not really, but we will get into  
15 that.

16 **A. Okay.**

17 Q. You would agree with me that those  
18 cash receipt journals reflect the sale of  
19 ceramics -- reflect the sale of goods to  
20 Ceramics By Stu-Doodle in Elizabeth City, North  
21 Carolina?

22 **A. Goods or services, yes.**

23 Q. And the only other good or service  
24 that Orton provided was, as you have talked  
25 about a little bit earlier, materials testing

1 or equipment to conduct materials testing?

2           **A.    Materials testing and the**  
3 **instruments, but the description of the three**  
4 **businesses did not cover our entire product**  
5 **line.**

6           Q.    What other products does Orton  
7 sell?

8           **A.    And our product line at that time,**  
9 **we had additional products that we do not have**  
10 **now.**

11          Q.    Which were what?

12          **A.    Okay.    So what you referred to as**  
13 **the cone business we refer to as products for**  
14 **firing.**

15          Q.    Okay.

16          **A.    So products that we have sold and**  
17 **some of which we presently still sell within**  
18 **that business include things like gloves,**  
19 **goggles, kiln vents which draw air out of a**  
20 **cooling kiln.**

21          Q.    Okay.

22          **A.    What is broadly referred to as**  
23 **kiln furniture --**

24          Q.    Okay.

25          **A.    -- to position support for a**

1     **variety of products being fired in a kiln.**

2             Q.     Okay.

3             **A.     So I cannot tell from these dollar**  
4     **amounts what was being purchased.**

5             Q.     Are you aware if Ceramics By  
6     Stu-Doodle in Elizabeth City, North Carolina,  
7     ever purchased gloves, products, kiln, or kiln  
8     furniture?

9             **A.     No, I am not.**

10            Q.     Okay. And I believe you were  
11     trying to follow the logic of the affidavit.  
12     Do you see anything in Elaine Garrett's  
13     affidavit that references the purchase of  
14     gloves, goggles, kiln vents, or kiln furniture?

15            **A.     No, I do not.**

16            Q.     Okay. In fact, the only thing  
17     referenced in Elaine Garrett's affidavit are  
18     Orton pyrometric cones, correct, paragraph  
19     four?

20            **A.     That's all I see here on this**  
21     **document.**

22            Q.     Does Orton advertise nationally?

23                   MS. DRAYTON: Objection to form and  
24     limited as to time or scope. You can answer.

25                   THE WITNESS: Okay. Orton primarily

1 has advertised -- had print advertisement in  
2 industry publications.

3 BY MR. SEALEY:

4 Q. You say they always have, to the  
5 best of your knowledge?

6 MS. DRAYTON: Objection to form.

7 THE WITNESS: Yeah, I can't say  
8 always, but...

9 BY MR. SEALEY:

10 Q. From 1970 -- strike that. From  
11 1963 to the present, would that be true?

12 A. I don't know if it's been every  
13 year, but directionally, yes.

14 Q. Does Orton limit their sales to  
15 certain geographic regions or will they sell  
16 anywhere?

17 MS. DRAYTON: Objection as to time  
18 period and limited scope.

19 THE WITNESS: I am not aware of us  
20 excluding selling to any particular geographic  
21 region.

22 BY MR. SEALEY:

23 Q. And is that true dating back until  
24 1963, to the best of your knowledge?

25 A. To the best of my knowledge.



1           Q.    Okay.  Orton understands that they  
2   are not always selling to end users, correct;  
3   that you would be selling to resellers or  
4   distributors who would then be selling to end  
5   users, fair?

6           A.    I would classify our model as a  
7   business to business model in that we sell  
8   through distribution.

9           Q.    Okay.  Has that always been the  
10  case?

11          A.    It has always been the primary  
12  business model.  But in previous depositions  
13  Gary Childress, the previous general manager we  
14  have discussed before --

15          Q.    Sure.

16          A.    -- has said there have been  
17  incidents of a local person stopping by and  
18  picking up cones and paying for them at our  
19  only location here in the Columbus -- greater  
20  Columbus area.

21          Q.    Fair enough, fair enough.

22          A.    So I can't say a hundred percent  
23  of the time every single item that's been sold  
24  has gone through distribution, but that's our  
25  primary business model.

1           Q.    So the expectation is that Orton  
2    would sell to a company like Stu-Doodle for  
3    customers to come in and buy their product; is  
4    that fair?

5           **A.    To me, when you say a company like**  
6    **Stu-Doodle, that's kind of a broad statement.**

7           Q.    A ceramics supply store?

8           **A.    I believe we sell through**  
9    **industrial distributors as well that I would**  
10   **not classify as a ceramics supply store.  So I**  
11   **-- I think that's too broad of a statement.**

12          Q.    But Orton did sell products to  
13    ceramics supply stores --

14          **A.    Certainly.**

15          Q.    -- with the expectation that  
16    customers could come purchase their products  
17    from those ceramics supply stores?

18          **A.    That is correct.**

19          Q.    And, in fact, your website lists  
20    two or three at least, I believe, distributors  
21    presently in the state of North Carolina; is  
22    that correct?

23          **A.    I believe there are three at the**  
24    **present time.**

25          Q.    Do you know how long those three

1 companies have been distributors for Orton?

2           **A. To my recall of our documents, the**  
3 **earliest one was enlisted as a distributor or a**  
4 **reseller in 1999 of the three.**

5           Q. Okay. You said '99, correct?

6           **A. That is correct, 1999.**

7           Q. Okay. One more thing to show you,  
8 I think, I promise.

9                       (Thereupon, Plaintiff's Exhibit  
10 No. 4, a four-page document titled Supplemental  
11 Affidavit of Gary Childress in Support of  
12 Defendant Edward Orton Jr. Ceramic Foundation's  
13 Motion to Dismiss Plaintiff's First Amended  
14 Complaint, was marked for purposes of  
15 identification.)

16 BY MR. SEALEY:

17           Q. Sir, I have just handed you what's  
18 been marked as Plaintiff's Exhibit 4. Have you  
19 seen that document before?

20           **A. Please give me a minute to review**  
21 **it --**

22           Q. Sure.

23           **A. -- so I can --**

24           Q. Take your time.

25           **A. Okay. Honestly, because I have**

1     **reviewed a lot of documents, I can't recall**  
2     **whether I looked at this exact one. I mean,**  
3     **I --**

4             Q.     Fair enough. Well, this was  
5     provided to us by your attorneys. You have now  
6     had just a minute to review it, so I -- and you  
7     don't recall if you have seen it before or not.  
8     But what I would ask you to do is flip to -- it  
9     says, I believe, page three of four.

10            And if you go to paragraph  
11     eighteen, it says the foundation does not have  
12     any record of sales from 1974 to 2006 to  
13     Ceramics By Stu-Doodle located in Elizabeth  
14     City, North Carolina. You would agree with me,  
15     sir, that based on your testimony today and the  
16     documents that have subsequently been provided  
17     that this information is no longer accurate?

18            **A.     It is not accurate due to my**  
19     **disclosure of the additional documents I**  
20     **discovered on August 29th --**

21            Q.     Right.

22            **A.     -- 2018.**

23            Q.     I am not calling Gary a liar.

24            **A.     Right.**

25            Q.     I am saying based on --

1           **A. I just wanted to clarify that, I**  
2   **believe it was accurate at that point in time.**

3           Q. It was based on his belief, but we  
4   now know this to be inaccurate?

5           **A. Yes.**

6           Q. All right. And the very next  
7   paragraph, he just -- we kind of change the  
8   name. It says the foundation does not have any  
9   record of sales from 1974 to 2006 to Stu-Doodle  
10   located in Elizabeth City, North Carolina. The  
11   allegations were that it was a company that  
12   by -- went by one or both names. But we know  
13   at the very least his assertions that the  
14   foundation did not have any records of sales to  
15   Ceramics By Stu-Doodle or by Stu-Doodle in  
16   Elizabeth City, North Carolina, is no longer  
17   accurate; is that fair?

18          **A. Please repeat the question.**

19          Q. That was a horrible question.

20          **A. It rambled a little bit.**

21          Q. Yeah, it really was. We know now  
22   based on your findings in August of last year  
23   that the statements made by Gary in paragraphs  
24   18 and 19 of his affidavit are no longer  
25   accurate; is that fair?

1           **A.    No, I don't think it is because**  
2   **these time frames are different than the time**  
3   **frames that we have new information about.  So**  
4   **to say these were wholly inaccurate looking at**  
5   **it as an engineer would not -- there is certain**  
6   **parts of this time period where what he said is**  
7   **still true.**

8           Q.    Okay.

9           **A.    Did I make that clear?**

10          Q.    I understand what you are saying,  
11   but I think there is just a little disconnect  
12   because it says you do not have any record of  
13   sales during that, oh, thirty-two year time  
14   period.  And, in fact, as we uncovered today  
15   you do, in fact, have record of sales for some  
16   period of time at least between 1974 and 2006,  
17   fair?

18          **A.    We have new information that**  
19   **contradicts that statement regarding three**  
20   **years of that time frame that he refers to.**

21          Q.    Okay.  Okay, I --

22          **A.    Not the totality of --**

23          Q.    Fair enough.  There are records.  
24   You are saying we don't have records somewhere  
25   from 1974 and we don't have records somewhere

1 from 1990, but we certainly have records for  
2 some of those years that reflect sales to  
3 Ceramics By Stu-Doodle in Elizabeth City, North  
4 Carolina, correct?

5 **A. I wouldn't say we don't have**  
6 **records. We do have records, but they do not**  
7 **contain reference to Stu-Doodle over much of**  
8 **those years.**

9 Q. Okay. I would disagree with your  
10 assertion that the documents only reflect sales  
11 from 1970 to '80. The documents obviously  
12 speak for themselves. We can go over that in a  
13 minute.

14 Turning your attention to  
15 paragraph twenty-two. The foundation does not  
16 have record of any reseller or distributor  
17 located in North Carolina until 1991, well  
18 after the foundation stopped packaging  
19 pyrometric cones with vermiculite in 1983.

20 You would agree with me that based  
21 on your findings in August of last year that  
22 that statement in paragraph twenty-two is  
23 inaccurate?

24 MS. DRAYTON: Objection to the form.

25 THE WITNESS: I think I can agree

1     that that one is inaccurate based on new  
2     information that we found.

3                   MR. SEALEY:   Can we go off the record  
4     for a minute?

5                   THE VIDEOGRAPHER:   Off the record,  
6     11:03.

7                   (Thereupon, an off-the-record  
8     discussion was had.)

9                   THE VIDEOGRAPHER:   We are back on the  
10    record at 11:05.

11   BY MR. SEALEY:

12                Q.    Okay.   Sorry, Mr. Lawson, we just  
13    went off the record there for a second.   But  
14    you would agree with me that entries in these  
15    cash receipts journals reflect sales to  
16    Ceramics by Stu-Doodle in 1977 -- from 1977  
17    through 1980, correct?

18                A.    **Okay.   My recollection -- I am**  
19    **sorry, my recollection was '78 to '80.**

20                Q.    Fair enough.

21                A.    **But --**

22                Q.    And as we have established --

23                A.    **-- there are a lot of dates**  
24    **involved in this, so --**

25                Q.    Fair enough.   You probably thought



1 I was going to quiz you on the corporate  
2 history. The -- and we can agree that to your  
3 knowledge, these cash receipt journals are not  
4 exhaustive of sales made by Orton during that  
5 period of time?

6 MS. DRAYTON: Objection to form,  
7 objection as to time scope.

8 THE WITNESS: I would be speculating  
9 totally on that, so...

10 BY MR. SEALEY:

11 Q. Okay. You have no knowledge one  
12 way or another?

13 A. No.

14 Q. Have you had an opportunity to  
15 review a report prepared by MBA Scientific  
16 Consultants in this case?

17 A. MBA Scientific Consultants? I  
18 don't recall anything like that.

19 Q. Are you aware that Karen Cahoon  
20 located approximately eighteen boxes of Orton  
21 cones that were still in her possession from  
22 her mother in this case?

23 A. I don't know if it was eighteen.  
24 I have been made aware that there are some  
25 boxes.

1           Q.    And you are aware that those boxes  
2    were sent out for testing, and at least some of  
3    those boxes were shown to have cones that were  
4    packaged in vermiculite?

5                   MS. DRAYTON:  Objection to form.

6                   THE WITNESS:  I have been told that  
7    some of the boxes -- I don't have firsthand  
8    knowledge, but I have been told some of the boxes  
9    have vermiculite packaging.

10          BY MR. SEALEY:

11                Q.    Okay.  What we know then based on  
12   the information that's available and in front  
13   of us is that Orton sold products to Ceramics  
14   By Stu-Doodle in Elizabeth City, North  
15   Carolina, at some period of time between 1974  
16   and 1983; is that fair?

17                   MS. DRAYTON:  Objection to the form,  
18   objection to the scope, time period,  
19   mischaracterizes testimony, evidence.

20                   THE WITNESS:  To my knowledge and  
21   memory, the time period was 1978 to 1980, and the  
22   cash journals indicate that we received some  
23   payment from Stu-Doodle.

24          BY MR. SEALEY:

25                Q.    And I am not talking only about

1 your cash receipt journals. You -- Orton has  
2 provided us evidence that from at least 1977  
3 until 1980 that they sold products to Ceramics  
4 By Stu-Doodle located in Elizabeth City, North  
5 Carolina, correct?

6 MS. DRAYTON: Objection to the form,  
7 lack of foundation, object to the time period.

8 THE WITNESS: Okay. So I am not  
9 trying to be argumentative, but I think you keep  
10 saying 1977 to '78, 1978 -- and my recollection,  
11 and as I said, there is a lot of dates, it was  
12 1978 to 1980.

13 BY MR. SEALEY:

14 Q. Okay. I will represent to you  
15 that the document Bates stamped Orton 0474  
16 states receipts journal November 1977 and on  
17 line eight reads Ceramics By Stu-Doodle.

18 A. All right. Well, I am not looking  
19 at that. But if that's -- if that's what it  
20 says, then I would say yes, your statement of  
21 1977 to 1980 appears to be --

22 Q. And so we have got --

23 A. -- representative of what's in the  
24 journals.

25 Q. Okay. So we have got cash receipt

1 journals that represent sales from at least '77  
2 to 1980 to Ceramics By Stu-Doodle in Elizabeth  
3 City, North Carolina, correct?

4 MS. DRAYTON: Objection to the form.

5 THE WITNESS: I am sorry, will you  
6 repeat the question?

7 MR. SEALEY: Can you please read that  
8 back, Monica?

9 (Question read.)

10 THE WITNESS: I don't believe the  
11 cash journals have the documentation of the city.  
12 But in terms of the dates and receipt of monies, I  
13 would agree with that.

14 BY MR. SEALEY:

15 Q. Okay. And you are not aware of  
16 any other Ceramics By Stu-Doodle --

17 A. No, I am not.

18 Q. Okay.

19 A. I am just trying to be very  
20 specific about what you are saying is in the  
21 journal.

22 Q. Fair enough. And you are not  
23 aware of any other Ceramics By Stu-Doodle?

24 A. No.

25 Q. Okay. And we also have an

1 affidavit prepared by Elaine Garrett that she  
2 can recall Ceramics By Stu-Doodle purchasing  
3 Orton pyrometric cones directly from Orton from  
4 at least the time period of 1974 to 1984,  
5 correct?

6 **A. That's what her affidavit says.**

7 Q. Okay. And as you have already  
8 indicated, you don't know one way or the other  
9 whether these cash receipt journals are  
10 exhaustive, correct?

11 MS. DRAYTON: Objection, objection to  
12 form, mischaracterizes and misstates testimony.

13 BY MR. SEALEY:

14 Q. You don't know one way or the  
15 other?

16 **A. I would agree that I don't think  
17 there is any way I could know.**

18 Q. Fair enough. There is no way  
19 anyone could know?

20 MS. DRAYTON: Objection to form,  
21 lacks foundation.

22 THE WITNESS: I am not aware of  
23 anyone who does know.

24 BY MR. SEALEY:

25 Q. Okay. And I will represent to you

1     that in her deposition, Karen Cahoon testified  
2     that she and her mother regularly went to  
3     Ceramics By Stu-Doodle in Elizabeth City, North  
4     Carolina, to purchase Orton pyrometric cones.  
5     Based on that representation and based on the  
6     information that we have available to us, you  
7     would agree with me that for at least a period  
8     of time from the 1970s until the early 1980s,  
9     Orton repeatedly sold pyrometric cones packaged  
10    in vermiculite to ceramic by Stu-Doodle?

11                   MS. DRAYTON:  Objection to the form,  
12    objection to time and scope, and  
13    mischaracterization of facts not in evidence.

14                   THE WITNESS:  I am sorry, will you  
15    repeat the question?  I am trying to answer the  
16    best I can.

17                   MR. SEALEY:  Can you read it back?

18                   (Question read.)

19                   MS. DRAYTON:  The same objections,  
20    form, mischaracterization, evidence, testimony.

21                   THE WITNESS:  I think the only thing  
22    that I can know is that we received payment from  
23    Stu-Doodle from 1977 to 1980.  Beyond that, I  
24    don't think I can credit or discredit anything.

25    BY MR. SEALEY:

1 Q. Okay. So you --

2 A. That's all I know. I mean --

3 Q. That's fair. So you have no  
4 information contradictory to Elaine Garrett's  
5 assertion that what was being purchased was, in  
6 fact, Orton pyrometric cones?

7 MS. DRAYTON: Objection to form.

8 THE WITNESS: I don't feel that I --  
9 that I know.

10 BY MR. SEALEY:

11 Q. And there is no one who would,  
12 correct?

13 A. I am not aware of anyone that  
14 knows.

15 Q. And likewise, you have no evidence  
16 contradictory to Karen Cahoon's testimony that  
17 she and her mother would go purchase Orton  
18 pyrometric cones on a regular basis from  
19 Ceramics By Stu-Doodle in Elizabeth City, North  
20 Carolina, correct?

21 A. I would totally be speculating.

22 Q. You are not aware of anybody who  
23 would have information contradictory to that,  
24 correct?

25 MS. DRAYTON: Objection to form.

1 THE WITNESS: I am not aware of  
2 anyone that would know anything about what they  
3 did.

4 BY MR. SEALEY:

5 Q. In fact, the only information that  
6 Orton has are these cash receipt journals which  
7 appear to corroborate that at least there were  
8 sales of something to Ceramics By Stu-Doodle in  
9 Elizabeth City, North Carolina?

10 MS. DRAYTON: Objection as to form,  
11 the scope, unlimited scope.

12 THE WITNESS: That's the only  
13 documentation I am aware of that we have.

14 BY MR. SEALEY:

15 Q. And that seems to corroborate the  
16 other facts that are in evidence; is that fair?

17 MS. DRAYTON: Objection, the form,  
18 foundation.

19 THE WITNESS: I would ask you to give  
20 me a more specific question. I don't even know  
21 what you are asking me to agree to, honestly.

22 BY MR. SEALEY:

23 Q. Okay. The only documentation that  
24 Orton has in its possession are these cash  
25 receipt journals which appear to corroborate at



1     least in some part the testimony of Elaine  
2     Garrett and the testimony of Karen Cahoon that  
3     they purchased products supplied by Orton from  
4     Ceramics By Stu-Doodle in Elizabeth City, North  
5     Carolina?

6                   MS. DRAYTON:  Objection as to form,  
7     objection as to scope and time.

8                   THE WITNESS:  All right.  I am sorry,  
9     would you please repeat the question?  Because  
10    these questions change slightly, and I want to  
11    make sure I understand.

12                   (Question read.)

13                   MS. DRAYTON:  The same objection.

14                   THE WITNESS:  I don't know that I can  
15    say anything beyond the fact that the journals  
16    indicate that we received money from Stu-Doodle  
17    from 1977 now, you have corrected me, I am  
18    accepting that based on what you said, to 1980.  
19    And I think me going beyond that, I have no idea  
20    what actually happened.

21    BY MR. SEALEY:

22                   Q.   And there isn't anyone who  
23    would --

24                   **A.   I am not aware of anybody that**  
25    **would know that, other than this that you have**

1     **put in front of me.**

2                   Q.    You are not aware of anybody from  
3   Orton who would have any information  
4   contradictory to that?

5                   **A.    No.**

6                   MR. SEALEY:  Mr. Lawson, that's all  
7   the questions I have for you.  Thank you for your  
8   time, sir.

9                   MS. DRAYTON:  I am going to ask you  
10  just a couple, Mr. Lawson, just to clarify.

11                   THE WITNESS:  Okay.

12                   DIRECT EXAMINATION

13  BY MS. DRAYTON:

14                   Q.    The ledgers and journals that we  
15  have been talking about I believe in Exhibit 2  
16  reflect specific dates of, for example, each  
17  month of years consecutively through, I  
18  believe, from 1974 until 1985 maybe; is that  
19  correct?

20                   **A.    I believe that's correct.**

21                   Q.    Okay.  And they actually list the  
22  date, the month, and the year in terms of each  
23  sale that was made on, for example,  
24  January 5th, 1975?

25                   **A.    I believe that's correct.**

1           Q.   And I said each sale, but the  
2   receipt of monies for each particular day; is  
3   that correct?

4           **A.   Right.**

5           Q.   Okay.  And you don't have any  
6   information or reason to believe that the  
7   foundation would have received funds from any  
8   person or any company that was not reflected in  
9   those ledgers for those days and years; is that  
10   accurate?

11                   MR. SEALEY:  Objection to form,  
12   foundation.

13                   THE WITNESS:  We have no  
14   documentation or indication that there were  
15   additional monies received.

16   BY MS. DRAYTON:

17           Q.   Outside of what was reflected on  
18   each day of each month of each year from 1974  
19   until 1985; is that accurate?

20           **A.   Yes, I believe that's accurate.**

21           Q.   I just wanted to clarify another  
22   date.  We have been talking about a lot of  
23   different dates.

24           **A.   All right, thank you.  I am open**  
25   **to that.**

1           Q.    Sure.  And there were  
2   references -- I believe you referenced a  
3   distributor in North Carolina beginning in  
4   1999.  Is it possible that there was a  
5   distributor in 1991 in North Carolina?

6           A.    **Okay.  Yes, that's highly possible**  
7   **that I did not remember that date accurately.**

8           Q.    Specific date?

9           A.    **I am sure it was in the '90s.  It**  
10   **may have been 1991 instead of 1999.**

11           MS. DRAYTON:  Thank you, sir.  That's  
12   all I have.

13           THE WITNESS:  All right.  Thank you  
14   for clarifying that.

15                    RE CROSS-EXAMINATION

16   BY MR. SEALEY:

17           Q.    Just one quick follow-up on Amy's  
18   question there for you.  As you pointed out,  
19   Orton has no documentation of any additional  
20   monies received by any customers not reflected  
21   in these cash receipt journals, correct?

22           A.    **That is correct.**

23           Q.    But that's not to say that there  
24   couldn't be -- there couldn't have been more  
25   transactions, you just haven't found any

1 documentation that would speak to those; is  
2 that fair?

3 MS. DRAYTON: Objection as to form,  
4 foundation, scope.

5 THE WITNESS: Okay. So it feels -- I  
6 think you are asking me to -- can you please  
7 repeat that question? Because we are talking  
8 about whether documents that don't exist may or  
9 may not exist. I need some clarification.

10 BY MR. SEALEY:

11 Q. Well, I think what we are trying  
12 to establish here is just because there is not  
13 information in these documents that Ceramics By  
14 Stu-Doodle didn't send you money in let's say  
15 1974, that doesn't mean it didn't happen,  
16 correct, it's just not reflected in these cash  
17 receipt journals?

18 MS. DRAYTON: Objection to form.

19 THE WITNESS: I think you are asking  
20 me to speculate on a hypothetical, and I really  
21 feel like I would be speculating.

22 BY MR. SEALEY:

23 Q. Well, because you just don't know,  
24 correct?

25 MS. DRAYTON: Objection to the form.

1 BY MR. SEALEY:

2 Q. You have no firsthand knowledge,  
3 as we have established?

4 A. I want to answer questions. So  
5 please repeat a question to me, and I will try  
6 to answer it.

7 Q. The cash receipt journals that you  
8 provided to us today, there are no entries for  
9 Ceramics By Stu-Doodle for, say, 1974?

10 A. Not to my knowledge.

11 Q. Okay.

12 A. And it has not been disclosed by  
13 anyone that there is.

14 Q. It has not been disclosed by Orton  
15 that there was, correct?

16 A. Well, it hasn't been disclosed by  
17 you, either, in this discussion.

18 Q. Well, have you read the affidavit  
19 of Elaine Garrett that says that they were  
20 purchasing Orton cones from at least 1974 to  
21 1984?

22 A. That's what this piece of paper  
23 right in front of me says.

24 Q. And my question to you, sir, is  
25 you have no evidence that's contradictory to

1     that; is that fair?

2                   MS. DRAYTON:  Objection to form,  
3     mischaracterizes testimony.

4                   THE WITNESS:  I don't believe we have  
5     any evidence that relates to it beyond the years  
6     1977 to 1980.

7     BY MR. SEALEY:

8                   Q.    Right.  The only evidence that you  
9     have, in fact, corroborates sales to Ceramics  
10    By Stu-Doodle from 1970 to 1980, correct?

11                   MS. DRAYTON:  Objection to the form.

12                   THE WITNESS:  '70 to '80?  No.

13    BY MR. SEALEY:

14                   Q.    '77 to 1980.

15                   **A.    '77 to 1980, I think we are in**  
16    **agreement on that, thank you.**

17                   Q.    And my question is just because  
18    these cash receipt journals don't reflect a  
19    sale in, say, 1974 to Ceramics By Stu-Doodle,  
20    as you have already indicated, that doesn't  
21    mean it doesn't happen -- it didn't happen, we  
22    just don't know?

23                   MS. DRAYTON:  Objection to form,  
24    mis --

25                   THE WITNESS:  I don't believe I have

1 indicated that.

2 MS. DRAYTON: Mischaracterizes  
3 testimony.

4 THE WITNESS: I don't recall  
5 indicating that.

6 BY MR. SEALEY:

7 Q. These cash receipt journals marked  
8 as Exhibit 2, you don't know if they are  
9 exhaustive, correct?

10 MS. DRAYTON: Objection to form.

11 THE WITNESS: As I think we have  
12 discussed before, I don't think there is any way I  
13 could know anything conclusively that happened in  
14 a time and a place where I wasn't there.

15 BY MR. SEALEY:

16 Q. That's fair. And so my question  
17 to you, sir, is just because these cash receipt  
18 journals may not reflect a transaction that  
19 took place in 1974, that doesn't mean it didn't  
20 happen?

21 MS. DRAYTON: Objection to the form,  
22 mischaracterizes.

23 THE WITNESS: Once again, I feel like  
24 the question is trying to get me to endorse a  
25 hypothetical.



1 BY MR. SEALEY:

2 Q. That's exactly what we are doing,  
3 sir.

4 A. And I am not used to this kind of  
5 language as a nonlawyer, so I am a little bit  
6 torn about how to be most straightforward in  
7 answering your question.

8 Q. Well, you could just answer the  
9 hypothetical.

10 A. I mean, anything could have  
11 happened and not be in that document, but that  
12 doesn't lead me to any conclusion. But as I  
13 understand the language as a layman, I will say  
14 things could happen that are not in that  
15 notebook.

16 Q. Okay. Including sales to Ceramics  
17 By Stu-Doodle in Elizabeth City, North  
18 Carolina?

19 A. I think that would be speculation  
20 on my part to -- to start to talk about the  
21 probability of a -- of something that I have no  
22 knowledge of.

23 MR. SEALEY: Okay, fair enough.  
24 That's all the questions I have.

25 MS. DRAYTON: I think that's it.

1 THE VIDEOGRAPHER: The time is 11:26.

2 The deposition is concluded. Stand by.

3 (Thereupon, the deposition was

4 concluded at 11:26 a.m.)

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1     STATE OF OHIO                     )

2     COUNTY OF MONTGOMERY )   SS: CERTIFICATE

3                     I, Monica K. McBee, a Notary

4     Public within and for the State of Ohio, duly

5     commissioned and qualified,

6                     DO HEREBY CERTIFY that the

7     above-named MARK G. LAWSON, was by me first duly

8     sworn to testify the truth, the whole truth and

9     nothing but the truth.

10                    Said testimony was reduced to

11    writing by me stenographically in the presence

12    of the witness and thereafter reduced to

13    typewriting.

14                    I FURTHER CERTIFY that I am not a

15    relative or Attorney of either party, in any

16    manner interested in the event of this action,

17    nor am I, or the court reporting firm with which

18    I am affiliated, under a contract as defined in

19    Civil Rule 28(D).

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1           IN WITNESS WHEREOF, I have hereunto set  
2   my hand and seal of office at Dayton, Ohio, on  
3   this 28th day of February, 2019.



*Monica K. McBee*  
\_\_\_\_\_  
MONICA K. MCBEE  
NOTARY PUBLIC, STATE OF OHIO  
My commission expires 4-18-2020

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